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11 Attorneys for Plaintiff

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 ROYAL PRINTEX, INC., a California
15 Corporation,

16 Plaintiff,

17 v.

18 BOCA LECHE, INC., a Florida
19 corporation; SJL APPAREL, INC., a
20 California corporation; and DOES 1
21 through 10,

22 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR CONTRIBUTORY COPYRIGHT INFRINGEMENT

Jury Trial Demanded

23 Plaintiff ROYAL PRINTEX, INC., by and through its undersigned attorneys,
24 hereby prays to this honorable Court for relief as follows:
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1 8. Plaintiff is informed and believes and thereon alleges that at all times
2 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
3 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
4 at all times acting within the scope of such agency, affiliation, alter-ego relationship
5 and/or employment; and actively participated in or subsequently ratified and
6 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of
7 all the facts and circumstances, including, but not limited to, full knowledge of each
8 and every violation of Plaintiff's rights and the damages to Plaintiff proximately
9 caused thereby.

10 **CLAIM RELATED TO DESIGN R21264**

11 9. Prior to the conduct complained of herein, Plaintiff composed an original
12 two-dimensional artwork for purposes of textile printing, which is set forth
13 hereinbelow. Plaintiff allocated this artwork with internal design number R21264
14 (hereinafter the "Subject Design"). This artwork was a creation of Plaintiff and/or
15 Plaintiff's design team, and is, and at all relevant times was, owned exclusively by
16 Plaintiff.

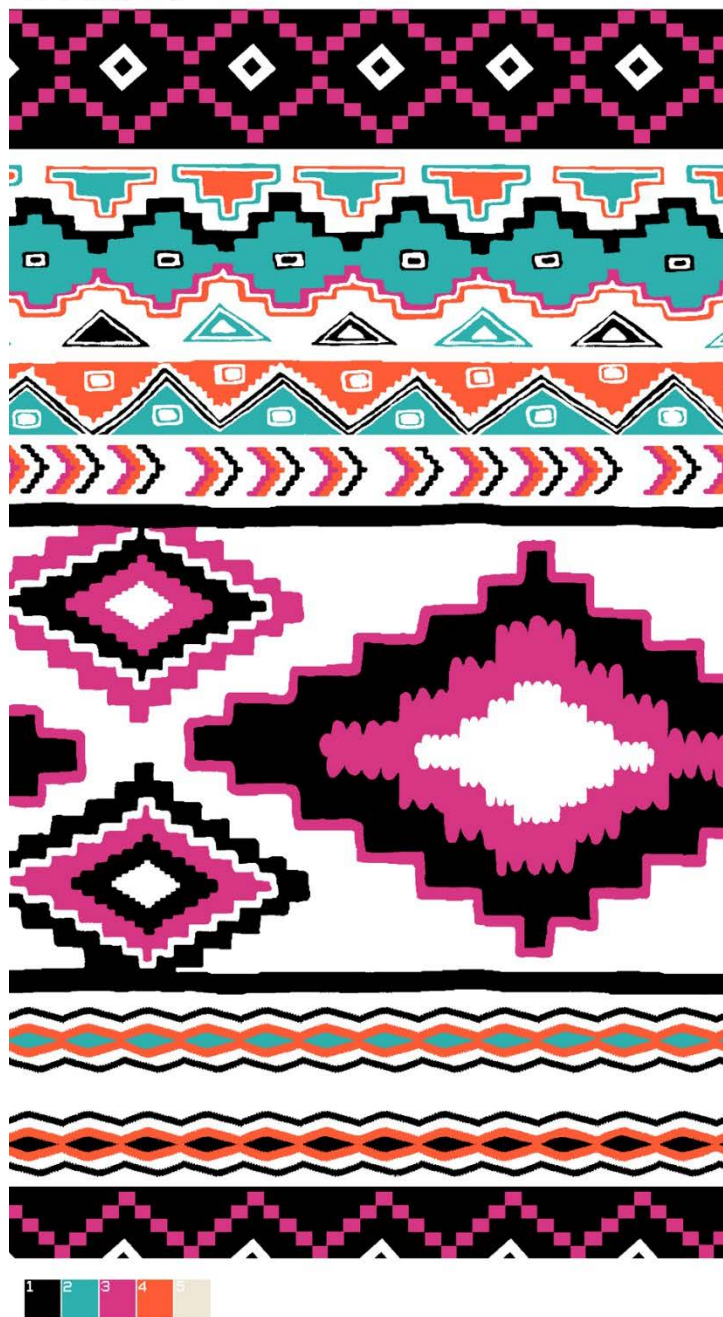
17 10. Plaintiff applied for a United States Copyright Registration for the Subject
18 Design on February 4, 2015. The United States Copyright Office is still in the
19 process of finalizing registration.

20 11. Prior to the acts complained of herein, Plaintiff sampled and sold fabric
21 bearing Subject Design to numerous parties in the fashion and apparel industries. A
22 true and correct image of the Subject Design is presented below:

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Subject Design:

R-21264-5



12.Plaintiff is informed and believes and thereon alleges that, following this distribution of fabric bearing Subject Design, BOCA LECHE, SJL, and certain DOE Defendants created, sold, manufactured, caused to be manufactured, imported and

1 distributed fabric and/or garments comprised of fabric bearing an unauthorized
2 reproduction of Subject Design (“Subject Product”). Such Subject Product includes
3 but is not limited to garments sold to the public by BOCA LECHE under Retail
4 Product Description “Mini Tribal Girl Leggings” and bearing a label reading “SJL
5 APPAREL.”

6 13. Plaintiff is informed and believes and thereon alleges that Defendants, and
7 each of them, have committed copyright infringement with actual or constructive

8 14. knowledge of Plaintiff’s rights and/or in blatant disregard for Plaintiff’s
9 rights, such that said acts of copyright infringement were, and continue to be, willful,
10 intentional and malicious, subjecting Defendants, and each of them, to liability for
11 statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to
12 one hundred fifty thousand dollars (\$150,000) per infringement.

13 15. A comparison of the Subject Design and non-exclusive exemplar of
14 Subject Product (below) makes apparent that the elements, composition, colors,
15 arrangement, layout, and appearance of the designs are substantially similar.
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Subject Design:



Subject Product:



FIRST CLAIM FOR RELIEF

(For Copyright Infringement – Against All Defendants, and Each)

16. Plaintiff repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

1 17. Plaintiff is informed and believes and thereon alleges that Defendants, and
2 each of them, had access to Subject Design, including, without limitation, through
3 (a) access to Plaintiff's showroom and/or design library; (b) access to illegally
4 distributed copies of the Subject Design by third-party vendors and/or DOE
5 Defendants, including without limitation international and/or overseas converters
6 and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) garments
7 manufactured and sold to the public bearing fabric lawfully printed with the Subject
8 Design by Plaintiff for its customers.

9 18. Plaintiff is informed and believes and thereon alleges that one or more of
10 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is
11 further informed and believes and thereon alleges that said Defendant(s) has an
12 ongoing business relationship with Defendant retailers, and each of them, and
13 supplied garments to said retailer, which garments infringed the Subject Design in
14 that said garments were composed of fabric which featured unauthorized print
15 design(s) that were identical or substantially similar to the Subject Design, or were
16 an illegal derivation or modification thereof.

17 19. Plaintiff is informed and believes and thereon alleges that Defendants, and
18 each of them, infringed Plaintiff's copyright by creating, making, and/or developing
19 directly infringing and/or derivative works from the Subject Design and by
20 producing, distributing and/or selling garments which infringe the Subject Design
21 through a nationwide network of retail stores, catalogues, and through on-line
22 websites.

23 20. Due to Defendants' acts of infringement, Plaintiff has suffered substantial
24 damages to its business in an amount to be established at trial.

25 21. Due to Defendants' acts of infringement, Plaintiff has suffered general and
26 special damages in an amount to be established at trial.

22. Due to Defendants' acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of the Subject Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of the Subject Design in an amount to be established at trial.

23. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed acts of copyright infringement, as alleged above, which were willful, intentional and malicious, which further subjects Defendants, and each of them, to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per infringement. Within the time permitted by law, Plaintiff will make its election between actual damages and statutory damages.

SECOND CLAIM FOR RELIEF

(For Vicarious and/or Contributory Copyright Infringement - Against All Defendants)

24. Plaintiff repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

25. Plaintiff is informed and believes and thereon alleges that Defendants knowingly induced, participated in, aided and abetted in and profited from the illegal reproduction and/or subsequent sales of garments featuring the Subject Design as alleged herein.

26. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, are vicariously liable for the infringement alleged herein because they had the right and ability to supervise the infringing conduct and because they had a direct financial interest in the infringing conduct.

- 1 c. That Defendants, and each of them, account to Plaintiff for their profits
2 and any damages sustained by Plaintiff arising from the foregoing acts
3 of infringement, the exact sum to be proven at the time of trial, or, if
4 elected before final judgment, statutory damages as available under the
5 Copyright Act, 17 U.S.C. § 101 et seq.;
- 6 d. That Plaintiff be awarded its attorneys' fees as available under the
7 Copyright Act U.S.C. § 101 et seq.;
- 8 e. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 9 f. That Plaintiff be awarded the costs of this action; and
- 10 g. That Plaintiff be awarded such further legal and equitable relief as the
11 Court deems proper.

12 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
13 38 and the 7th Amendment to the United States Constitution.

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15 Dated: February 17, 2017

By: /s/ Scott A. Burroughs
Scott A. Burroughs, Esq.
Trevor W. Barrett, Esq.
DONIGER / BURROUGHS
Attorneys for Plaintiff
ROYAL PRINTEX, INC.